THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11830 OF 2007

DATED: 08-06-2007

Between :

Y. Sudarshan Raju … Petitioner

And

The Assistant Director of
Mines & Geology, Anakapally,
Visakhapatnam and another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11830 OF 2007

ORDER :

This writ petition is filed questioning the demand notice dated 26-05-2007 issued by the 1st respondent under which the petitioner was directed to pay the penalty amount of Rs.59,30,388/- i.e., normal seigniorage fee of Rs.1,25,388/- + penalty of Rs.58,05,000/- for the alleged storage of sand to the quantity of 3483 cubic meters at the site of stone crusher.

Though it is not in dispute that the petitioner was issued a show-cause notice dated 11-5-2007 which was received by the petitioner on 15-05-2007, the petitioner states that since he was not well, he could not submit his explanation within the time granted and by letter dated 29-05-2007 he sought extension of time. In the meanwhile, the impugned order came to be passed.

I have heard the learned Counsel for both the parties.

As could be seen from the impugned order itself, the said order was passed without taking into consideration the version of the petitioner.

It is true that the petitioner failed to submit his explanation to the show-cause notice within the time granted. However, having regard to the reasons explained by the petitioner for his inability to submit the explanation within the time granted and particularly having regard to the fact that the impugned order is penal in nature involving civil consequences, it would be appropriate to afford an opportunity to the petitioner to submit his explanation to the show-cause notice dated 11-

5-2007.

Accordingly, the impugned order dated 26-05-2007 is hereby set aside and the Writ Petition is disposed of granting liberty to the petitioner to submit his explanation to the show-cause notice dated 11-5-2007 on or before 15-06-2007. If the explanation is submitted by the petitioner within the time fixed above, the respondent shall consider the same and pass appropriate orders in accordance with law afresh. No costs.

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G. ROHINI, J.

Dt. 08-06-2007
klp

Note:- CC by tomorrow.